Supreme Court, U.S.
FILED

No. 04-549 SEP 29 2004

OFFICE OF THE CLERK

In The

Supreme Court of the United States

IN RE EDMUND OROK EDEM,

Petitioner.

On Petition For A Writ Of Certiorari To The United States Court Of Appeals For The Second Circuit

PETITION FOR A WRIT OF CERTIORARI

EDMUND OROK EDEM
97 Broad Street
Staten Island, NY 10304
(718) 727-3331

QUESTIONS PRESENTED

(i) Whether any citizen of the United States or permanent resident living within her borders is above the laws and Constitution of the United States.

(ii) Whether the doctrine of judicial immunity extends to criminal wrongdoing.

(iii) Whether a civil and criminal litigation can be pursued concurrently by an individual and the State respectively, and can the President of the United States or an officer acting on his behalf, refuse to enforce the laws of the land.

(iv) Whether the denial of mandamus by the Court of Appeal does not *ipso facto* confer blanket immunity on criminal wrongdoing which makes the Court an accessory after the fact.

PARTIES INVOLVED

All parties do not appear in the caption of the case on the cover page. A list of all parties to the proceeding in the court whose judgment is the subject of this petition is as follows:

The Attorney General of the United States

Mrs. Pamela Ise Smith

Mr. Alexander Okon

Mr. Robert Ratanski

Mr. Stewart Weinstein

TABLE OF CONTENTS

	Page
Questions Presented	i
Parties Involved	ii
Table of Authorities	iv
Opinion Below	1
Jurisdiction	1
Constitutional and Statutory Provisions and Regulations	1
Statement of the Case	2
Reasons for Granting the Writ	5
A. The Attorney General's refusal to perform a ministerial act is a dereliction of duty and could be likened to a touch of gangrene that corrupts the whole body	5
B. There is no immunity from investigation and prosecution for criminal misconduct	7
C. Western civilization rests on the bedrock that the law is no respecter of persons	9
D. The Court of Appeals refusal to issue mandate *ipso facto* confers immunity for criminal wrongdoing	11
Conclusion	12
Appendix 1	App. 1
Appendix 2	App. 3

TABLE OF AUTHORITIES

Page

CASES:

Barr v. Matteo, 360 U.S. 564, 79 S.Ct. 1335, 3 L.Ed.2d 1434 (1959) 7

Berger v. United States, 295 U.S. 88 (1935) 11

Bracy v. Gramley, 520 U.S. 899 (1997) 5

Clinton v. Jones, 000 U.S. 95-1853 (1997) 4

Davis v. Scherer, 468 U.S. 183 (1984) 12

Ex parte Hudgings, 249 U.S. 378 (1919) 8

Ex parte Virginia, 100 U.S. 339 (1880) 5

In re Michael, 326 U.S. 224 (1945) 8

In re United States, 903 F.2d 88 (2d Cir. 1990) 3

In re Von Bulow, 828 F.2d 94 (2d Cir. 1987) 3

King v. Love, 766 F.2d 962 (6th Cir.), *cert. denied*, 474 U.S. 971, 106 S.Ct. 351, 88 L.Ed.2d 320 (1988) 10

Kush v. Rutledge, 458 U.S. 1120, 102 S.Ct. 3508, 73 L.Ed.2d 1382, *affirmed*, 460 U.S. 719, 103 S.Ct. 1483, 75 L.Ed.2d. 413, *appeal after remand*, 859 F.2d 732 (1983) 8

Marshall v. Gibson's Products, Inc. of Plano, 584 F.2d 668 (5th Cir. 1978) 4

Roche v. Evaporated Milk Ass'n., 319 U.S. 21 (1943) 9

Rolfe v. State of Arizona, 578 F.Supp. 987 (D.C. Ariz. 1983) 8

Silverman v. United States, 556 F.2d 659 (2d Cir. 1977) 8

TABLE OF AUTHORITIES – Continued

Page

United States v. Burr, 25 F. Cas. 187 (No. 14,694) (CC Va. 1807) 11

United States v. Debrow, 346 U.S. 374 (1953) 8

United States v. Duke, 50 F.3d 571 (8th Cir. 1995) 8

United States v. Guang, 962 F.2d 160 (2d Cir. 1992) 8

United States ex rel. McLennan v. Wilbur, 283 U.S. 414 (1931) 4

United States v. Nixon, 418 U.S. 683 (1974) 11

Wilbur v. United States, 284 U.S. 231 (1931) 4

CONSTITUTIONAL AND STATUTORY PROVISIONS:

U.S. Const. Art. II 1

U.S. Const. Art. III 1, 3

U.S. Const. Fourteenth Amendment 6

18 U.S.C. § 241 8

18 U.S.C. § 371 9

18 U.S.C. § 401(1) 9

18 U.S.C. § 401(2) 1, 9

18 U.S.C. § 1017 8

18 U.S.C. § 1028 9

18 U.S.C. § 1506 8

18 U.S.C. § 1509 8

18 U.S.C. § 1623 8

18 U.S.C. § 1623(a)(c)(1) 9

18 U.S.C. § 1951, Hobb's Act 9

TABLE OF AUTHORITIES – Continued

Page

18 U.S.C. § 10019(1)(2) 8, 9

28 U.S.C. § 1254(1) 1

28 U.S.C. § 1361 ..... 2, 3

28 U.S.C. § 1651(a) 1

42 U.S.C. § 1985(2)(3) 8

S. Rep. No. 1992, 87th Cong., 2d Sess. 2 4

H. Rep. No. 536, 87th Cong., 2d Sess. 1 4

28 U.S.C. (1940 ed.) (Judicial Code 268), derived from the Act of Mar. 2, 1831, Rev. Stat. 725 9

The Code of Federal Regulations Vol. 1, Part O, Subpart J, Sec. 50(a) 2

The Code of Federal Regulations, Vol. 1, Part O, Subpart K, Sec. 55 2

OTHERS:

Charles-Pierre Peguy, Men and Saints, trans. Anne and Julian Green, p. 11 (1944) 6

President Calvin Coolidge, The New York Times, January 27, 1924, p. 1 12

The works of the Right Honorable Edmund Burke, vol. 3, pp. 438-39 (1899) 7

Letter of President Roosevelt to Attorney General Moody, August 1904 11

OPINION BELOW

The date on which the United States Court of Appeals decided my case was August 3, 2004. A timely petition for reconsideration was denied by the United States Court of Appeals on September 8, 2004.

The Opinions of the United States Court of Appeals appears at Appendices 1 & 2, to the petition and are unpublished.

JURISDICTION

The jurisdiction of this Court is invoked under 28 U.S.C. § 1254(1). This Court has jurisdiction under United States Const. Art. II & III; 18 U.S.C. § 401(2).

CONSTITUTIONAL AND STATUTORY PROVISIONS AND REGULATIONS

"He shall take care that the laws be faithfully executed." The President, in the exercise of his executive powers under the Constitution, "speaks and acts through the heads of the several departments in relation to subjects which appertain to their respective duties." The heads of the departments are his authorized assistants in the performance of his executive duties, and their official acts, promulgated in the regular course of business, are presumptively his acts. U.S. Const. Art. II.

The Supreme Court and all courts established by Act of Congress may issue all writs necessary or appropriate in aid of their respective jurisdictions and agreeable to the usages and principles of law. 28 U.S.C. § 1651(a).

The extraordinary remedy of mandamus is available to compel the performance of an act which the law especially enjoins as a duty resulting from office. 28 U.S.C. § 1361.

Mandates the Attorney General of the United States to enforce all Federal Statutes affecting civil rights. The Code of Federal Regulations, Vol. 1, Part O, Subpart J Sec. 50(a).

Mandates the Attorney General of the United States (a) To prosecute federal crimes not otherwise specifically assigned; and (f) Carry out all criminal litigation and related investigations and inquiries pursuant to all the power and authority of the Attorney General, to enforce the Immigration and Naturalization Act and all other laws relating to the immigration and naturalization of aliens. The Code of Federal Regulations, Vol. I, Part O, Subpart K, Sec. 55.

STATEMENT OF THE CASE

The petitioner reported a series of criminal activities to the Attorney General of the United States, and he has failed to perform his constitutionally mandated duty because of the personalities involved. Constitutional and democratic nations like the United States of America have forever accepted the maxim that every citizen is equal before the law and none is above the law.

Central to the issue brought before this Court is the elementary question – is any citizen of the United States above the laws of the land? This case started as an innocuous family court dispute. During the deliberations, the petitioner noted that judicial officers betrayed their oath of office, acted unconstitutionally and committed criminal

offences. The typical reaction of the society is that it is a simple family court matter which the petitioner is trying to avoid paying. But the United States Constitution and this Court have made clear the absolute right of due process. Falsification of court records by judicial officers to achieve whatever noble aims is a crime. Such a tactic had come to the attention of Justice Brandeis who was attributed with this saying, "To declare in the administration of the country that the end justifies the means – To declare that government may commit crimes in order to secure conviction – will bring terrible retribution."

Mandamus is a stringent and extraordinary remedy that the Courts do not grant lightly. 28 U.S.C. § 1361. In order to obtain one, petitioner must show (i) the presence of a novel and significant question of law; (ii) the inadequacy of other available remedies; and (iii) the presence of a legal issue whose resolution will aid in the administration of justice.[1] The petitioner is asking this Court to examine the elemental issue brought before it to determine if those three elements listed above have not been satisfied. This Court is being asked to exercise its core Article III function to decide cases and controversies.

First this case presents a novel and significant issue. Crimes committed against the Laws and Constitution of the United States are generally investigated and prosecuted by the Attorney General's office. In this situation, the petitioner is alleging criminal conduct by officers of the court along with others. Failure to grant a writ has the deliberate effect of covering up criminal conduct and

[1] *In re United States*, 903 F.2d 88, 89 (2d Cir. 1990), citing *In re Von Bulow*, 828 F.2d 94, 97-100 (2d Cir. 1987).

makes all the officers of the court accessories after the fact. That impugns the integrity of the judicial system.

Second, the Court of Appeals has foreclosed this case being heard on the merits by the District Court[2] by denying its transfer, so there are no other forms of relief available to the petitioner. (See App., infra 1, 2) The petitioner has no alternative remedies capable of effectively protecting his and society's substantial interests. There is an ongoing case in the Eastern District of New York where the petitioner filed a civil suit against the State of New York. That Court has refused to join these officers as co-defendants thereby immunizing them from suit. A civil remedy on its own does not resolve the criminal complaint which depends on the needs of public policy. There is a public policy expectation that there shall be a Rule of Law and the Attorney General of the United States is the chief law enforcement officer of the federal government. *Marshall v. Gibson's Products, Inc. of Plano*, 584 F.2d 668 (5th Cir. 1978).

The duties of the Attorney General in this particular situation is so plainly prescribed as to be free from doubt and equivalent to a positive command. *Wilbur v. United States*, 284 U.S. 231 (1931); see *United States ex rel. McLennan v. Wilbur*, 283 U.S. 414, 420 (1931).

In *Clinton v. Jones*, 000 U.S. 95-1853 (1997), argued in this Honorable Court on January 13, 1997, the Court held that "the President, like other officials, is subject to

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[2] The United States District Court has jurisdiction in "an action in the nature of mandamus to compel an officer or employee of the United States or any agency thereof to perform a duty owed to the plaintiff." See S. Rep. No 1992, 87th Cong., 2d Sess. 2; H. Rep. No. 536, 87th Cong., 2d Sess. 1.

the same laws that apply to all citizens, that no case had been found in which an official was granted immunity from suit." The Supreme Court in *Ex parte Virginia*, 100 U.S. 339 (1880) has traditionally refused to extend immunity to judges charged in criminal wrongdoing. The Court reasoned: "Whether the act done by him was judicial or not is to be determined by its character." There was no situation where the Courts actually blocked judicial deliberation as its being done by the Court of Appeals. The Court of Appeals and the Attorney General of the United States are covering up criminal wrongdoing. *Bracy v. Gramley*, 520 U.S. 899 (1997).

Finally, resolution of this issue will aid in the administration of justice by supporting the words of Brandeis above, thus ensuring that the integrity of the courts are not impugned or tainted, by ensuring that judgments entered in United States courts would not be undermined in foreign courts at point of registration, weeding out of court officers who have betrayed their judicial oaths, and fulfilling the basic tenets of law that every crime carries with it a commensurate retributive and deterrent punishment. This case raises the novel question whether state actors are aware of the central belief in a democratic society that all citizens are equal before the law.

REASONS FOR GRANTING THE WRIT

A. The Attorney General's refusal to perform a ministerial act is a dereliction of duty and could be likened to a touch of gangrene that corrupts the whole body.

Writs of mandamus issue to control the conduct of an officer of government, judicial or administrative, only

when the duty to do the act commanded are clear and definite and involve the exercise of no discretion-that is, when an act is ministerial. The Court of Appeals has refused to comprehend that their action or omission is apposed to the positive and plain legal dogma, that the President of the United States through his Attorney General must perform his duties.

The Fourteenth Amendment of the U.S. Constitution states that all people will have "the equal protection of laws." The Court of Appeals' failure to compel the Attorney General to carry out his legally mandated duties negates this cardinal principle. Western civilization has always anchored its civilization on the rule of law as expressly made clear by one of its robust thinkers.

> *"We said that a single injustice, a single crime, a single illegality, particularly if it is officially recorded, confirmed, a single wrong to humanity, a single wrong to justice and to right, particularly if it is universally, legally, nationally, comodiously accepted, that a single crime shatters and is sufficient to shatter the whole social pact, the whole social contract, that a single legal crime, a single dishonorable act will bring about the loss of one's honor, the dishonor of a whole people. It is a touch of gangrene that corrupts the entire body."*

Charles-Pierre Peguy, Men and Saints, trans. Anne and Julian Green, p. 11 (1944)

B. There is no immunity from investigation and prosecution for criminal misconduct.

Public policy is designed to make the judicial system work.[3] It is not designed to protect judicial officers. Protection of these state actors is incidental. Any immunity so ascribed is not of a personal nature but that of public interest. The Court of Appeals erred in not considering the public interest aspect of protecting society against scoundrels in judicial robes.

There is no absolute judicial immunity for criminal conduct; therefore, the Attorney General has erred in not investigating and prosecuting the parties involved in criminal conduct. Official immunity is not a badge or emolument of exalted office, but an expression of a policy designed to aid in the effective functioning of government.[4] If at all it exists in this case, which the petitioner is not conceding, absolute judicial immunity is not immunity from injunction, or from special proceedings such as mandamus and prohibition.

Any defense if any must be by way of affirmative defense pleading and proof of judicial acts. The Court of Appeals should have issued a writ instead of resorting to wishy-washy platitudes. It does disservice to the integrity of the United States judiciary when judicial officers cover up crimes. Judicial officers as state actors are not vested

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[3] Justice is itself the great standing policy of civil society; and any eminent departure from it, under any circumstances, lies under the suspicion of being no policy at all. Edmund Burke, "Reflections on the Revolution in France," 1790, The works of the Right Honorable Edmund Burke, vol. 3, pp. 438-39 (1899).

[4] *Barr v. Matteo*, 360 U.S. 564, 572-573, 79 S.Ct. 1335, 1340, 3 L.Ed.2d 1434 (1959).

with the sovereign immunity granted to the State itself. See *Rolfe v. State of Arizona*, 578 F.Supp. 987 (D.C. Ariz. 1983); *Kush v. Rutledge*, 458 U.S. 1120, 102 S.Ct. 3508, 73 L.Ed.2d 1382, *affirmed*, 460 U.S. 719, 103 S.Ct. 1483, 75 L.Ed.2d 413, *appeal after remand*, 859 F.2d 732 (1983).

On August 15, 2000, Stewart Weinstein performed his judicial duty. On November 8, 2001, fifteen months later, Stewart Weinstein conspired and forged a court document which was forwarded to the petitioner. This was not a judicial act. Robert Ratanaski is the Clerk of the Court. It was his duty to copy the Order on record as is, and send same to the petitioner on time. If he had done this, he would be immune from suit. By conspiring with Weinstein to delay and then forge another Order to send to the petitioner knowing fully well that the new Order sent out by him which was freshly signed by Weinstein had been altered is not within his job description, 18 U.S.C. § 1506. This is obstruction of justice, 18 U.S.C. § 1509, perjury, 18 U.S.C. § 10019(1)(2), 18 U.S.C. § 1623, wrongful use of government seal, 18 U.S.C. § 1017, and conspiracy to interfere with civil rights, 18 U.S.C. § 241, 42 U.S.C. § 1985(2)(3); these were non-judicial acts, which are made more pungent that it was committed during a court deliberation by judicial officers.[5] *United States v. Debrow*, 346 U.S. 374, 376 (1953).

The Second Circuit has itself recognized this in *United States v. Guang*, 962 F.2d 160, 164 (1992) This view is also consistent with that of this Court in *In re Michael*, 326 U.S. 224, 228 (1945); *Ex parte Hudgings*, 249 U.S. 378, 383

[5] "The cardinal importance that no person should be convicted on the basis of perjury." *Silverman v. United States*, 556 F.2d 659 (2d Cir. 1977); cf. *United States v. Duke*, 50 F.3d 571, 576-77 (8th Cir. 1995).

(1919). It is a fact that the officers did fall foul of 28 U.S.C. (1940 ed.) (Judicial Code 268), derived from the Act of March 2, 1831, Rev. Stat. 725.[6]

Mrs. Pamela Smith and Alexander Okon, are Nigerian scam artists claiming to come from Liberia and have submitted false information to the Immigration and Naturalization Service to that effect. 18 U.S.C. § 1028. They have also submitted a false document to a court of the United States and perjured themselves under oath. 18 U.S.C. § 1623(a)(c)(1); 18 U.S.C. § 10019(1)(2). Smith is currently involved in large scale defrauding of the United States Government through the bilking of the Health Care Service medical equipment program. 18 U.S.C. § 371. They have interfered with interstate trade[7] and have also committed mail fraud. Are these not enough grounds for these persons to be investigated by the Attorney General?

C. Western civilization rests on the bedrock that the law is no respecter of persons.

The United States Court of Appeals failed to exercise its authority in granting the writ and unwittingly became an abettor of criminal misconduct. *Roche v. Evaporated Milk Ass'n.*, 319 U.S. 21 (1943).

Much as civilized society tries to make government officials immune from suit so as not to hamper them in the discharge of their duties, a method of correction of deliberate and criminal wrongdoing is *sine qua non* to also

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[6] See also 18 U.S.C. § 401(1) and (2).

[7] Hobbs Act. Their conduct was defined with specificity prior to violation of this act. 18 U.S.C. § 1951.

prevent government officials from abusing this privilege. A situation where over six judges of the State of New York have refused to correct this criminal act makes it a state doctrine and policy, and if the highest court in the land refuses to act, that would make it a United States policy.

This suit is not about the judicial act of the judge. It is about the criminal act of falsification of court records and perjury. This suit is not about the administrative function of the court clerk, it is about the conspiracy to issue a falsified document, knowing fully well its effect of influencing the outcome of appellate review. In *King v. Love*, 766 F.2d 962, 968 (6th Cir), *cert. denied*, 474 U.S. 971, 106 S.Ct. 351, 88 L.Ed.2d 320 (1988), this Court stated that "although setting bond on an arrest warrant is a judicial act, the act of deliberately misleading the police officer who was to execute the warrant about the identity of the person sought was non judicial." Should an individual so perjured against restrict himself to only seeking civil damages or does the welfare of the greater society not be better served by weeding these rascals out of the hallowed halls of the United States judiciary?[8]

In today's world where citizens of other countries are being made to stand trial in American Courts, the notion that felonious conduct could be committed by judicial officers, threatens the integrity and sanctity of the United States judiciary.

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[8] Offenders owe a debt to society which is paid when the offender is punished.

D. The Court of Appeals refusal to issue mandate *ipso facto* confers immunity for criminal wrongdoing.

In a letter written to Attorney General William H. Moody, in August 1904, *President Theodore Roosevelt noted:*

> *"Of all officers of the government, those of the Department of Justice should be kept most free from any suspicion of improper action on partisan of factional grounds, so that there shall be gradually a growth, even though a slow growth, in the knowledge that the federal courts and the representatives of the federal Department of Justice insist on meting out even handed justice to all."*

The United States of America has consistently shown an historical commitment to the rule of law. This is most profoundly manifested in the Supreme Court's view in – *United States v. Burr*, 25 F. Cas. 187, 190, 191-192 (No. 14,694) (CC Va. 1807), citing *United States v. Nixon*, 418 U.S. 683, 708-09 (1974).[9] Why then is the judicial system covering up federal crimes?

The first principle of justice is equality under the law. The principle that each citizen should receive equal treatment by the legal system of this country enjoys a long tradition of respect. The notion that no one is to be dealt with either in a preferential or prejudiced manner by the police, courts, or other governmental agencies is en shrined in both the Declaration of Independence and the

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[9] That the twofold aim (of criminal justice) is that the guilty shall not escape or innocent suffers. *Berger v. United States*, 295 U.S. 88 (1935).

Constitution. Thomas Jefferson declared "that all men are created equal" in terms of their basic social rights.

CONCLUSION

This Court has traditionally held that ministerial duties are those whose statutes or regulations "specify the precise action that the official must take in each instance."[10] Would the Supreme Court of the United States of America make a categorical statement in the 21st century that the American civilization is not one that tolerates criminal conduct by judicial officers? Would the Supreme Court of the United States of America send a message to felons masquerading under the cover of judicial immunity, that egregious conduct like perjury, obstruction of justice and forgery would not be tolerated by society? Would the Supreme Court of today ascribe to the doctrine succinctly put by one of America's presidents?

> *"If there has been any crime, it must be prosecuted. . . . Counsel will be instructed to prosecute these cases in the courts so that if there is any guilt it will be punished; if there is any civil liability it will be enforced; if there is any fraud it will be revealed; and if there are any contracts which are illegal they will be canceled. Every law will be enforced. And every right of the people and government will be protected."* President Calvin Coolidge, The New York Times, January 27, 1924, p. 1.

[10] *Davis v. Scherer*, 468 U.S. 183, 196 n. 14 (1984).

The plaintiff implores this Court not to allow itself to be tainted with any tinge of a cover up. The Attorney General of the United States should be mandated to investigate and prosecute my allegations. It is trite that if an error or omission is allowed to persist in a court of final resort, it has the lasting effect of becoming a precedent that would forever be binding.

Petitioner respectfully prays that a writ of certiorari issue to review the judgment below. The Supreme Court of the United States should uphold the principle of absolute equality of all before the law or stand condemned.

Dated this day of September 22, 2004.

Respectfully submitted,

EDMUND OROK EDEM
97 Broad Street
Staten Island, NY 10304
(718) 727-3331

E.D.N.Y
03-CV-1220
Gleeson, J.
Bloom, M.J.

MANDATE

United States Court of Appeals
FOR THE
SECOND CIRCUIT

At a stated Term of the United States Court of Appeals for the Second Circuit, held at the Thurgood Marshall United States Courthouse, at Foley Square, in the City of New York, on the ___ Day of ___ Two thousand and four.

(Filed Aug. 3, 2004)

Present:

Hon. John M. Walker, Jr.,
Chief Judge,
Hon. Ralph K. Winter,
Hon. Dennis Jacobs,
Circuit Judges.

In re Edem,

Petitioner, 04-160-op

Petitioner, *pro se*, has filed a petition for a writ of mandamus and a motion for transfer of his petition to the Eastern District of New York. Upon due consideration, it is ORDERED that the mandamus petition and the motion for transfer are DENIED. Petitioner has not shown the presence of a novel and significant question

of law, the inadequacy of other available remedies, or the presence of a legal issue whose resolution will aid in the administration of justice so as to justify mandamus relief. *See In re United States*, 10 F.3d 931, 933 (2d Cir. 1993).

FOR THE COURT:
Roseann B. MacKechnie, Clerk

By: /s/ Lucille Carr

UNITED STATES COURT OF APPEALS
FOR THE SECOND CIRCUIT
THURGOOD MARSHALL U.S. COURT HOUSE
40 FOLEY SQUARE
NEW YORK 10007

Roseann B. MacKechnie
CLERK

Date:	8/11/04
Docket Number:	04-0160-op
Short Title:	In Re: Edmund Orok Edem v.
DC Docket Number:	03-cv-1220
DC:	EDNY (BROOKLYN)
DC Judge:	Honorable John Gleeson

MOTION INFORMATION FORM

(Filed Sept. 7, 2004)

Movant: Edmund Orok Edem, Petitioner Pro Se

	Yes	No
Consent sought from adversary(ies)?	☐	☐
Consent obtained from adversary(ies)?	☐	☐
Is oral argument desired?	☐	☐

ORDER

Before: Hon. John M. Walker, Jr., Hon. Ralph K. Winter, Hon. Dennis Jacobs, *Circuit Judges* IT IS HEREBY ORDERED that the motion for reconsideration be and it hereby is DENIED.

FOR THE COURT:
ROSEANN B. MACKECHNIE, Clerk

By: /s/ Arthur M. Heller
Arthur M. Heller,
Motions Staff Attorney

LN

(2)

No. 04-549

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IN RE EDMUND OROK EDEM,

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On Petition For A Writ Of Certiorari To The United States Court Of Appeals For The Second Circuit

SUPPLEMENTAL BRIEF

EDMUND OROK EDEM
97 Broad Street
Staten Island, NY 10304
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LIST OF PARTIES

PARTIES INVOLVED

The State of New York

The Attorney General of the United States

Mrs. Pamela Ise Smith

Mr. Alexander Okon

Mr. Robert Ratanaski

Mr. Stewart Weinstein

TABLE OF CONTENTS

	Page
List of Parties	i
Table of Authorities	iii
Opinions Below	1
History of the Case	1
Federal Law Claims	4
Constitutional Law and International Treaties Claims	6
Fraud Upon the Court	6
Conclusion	9

TABLE OF AUTHORITIES

Page

CASES

Carey v. Piphus, 435 U.S. 247 (1978) 5, 8

Civil Rights Cases, 109 U.S. 3 (1883) 5

Colon v. Coughlin, 58 F. 3d 865 (2d Cir. 1995) 8

Fleming v. New York University, 865 F. 2d 478 (2d Cir. 1989) 7

Gleason v. Jandrucko, 860 F. 2d 556 (2d Cir. 1988) 7

Imber v. Pachtman, 424 U.S. 409 (1976) 8

Kupferman v. Consolidated Research & Mfg. Corp., 459 F. 2d 1072 (2d Cir. 1972) 7

Pangburn v. Culbertson, 200 F. 3d 65 (2d Cir. 1999) 9

Pierson v. Ray, 386 U.S. 547 (1967) 4

Pitchell v. Callan, 13 F. 3d 545 (2d Cir. 1994) 8

Rodriguez v. Welprin, 116 F. 3d 62 (2d Cir. 1997) 7

Scheuer v. Rhodes, 416 U.S. 232 (1974) 4

Screws v. U.S., 325 U.S. 91 (1945) 6

Twinning v. New Jersey, 211 U.S. 78 (1908) 6

United States v. Internat'l Tel. & Corp., 349 F. Supp. 22 (D. Conn. 1972) 7

CONSTITUTIONAL AND STATUTORY PROVISIONS

U.S. Const. Sixth Amendment 6, 7

U.S. Const. Fourteenth Amendment 6, 7

18 U.S.C. § 18. 5

18 U.S.C. § 1001(a) 1, 2, 3. 5

TABLE OF AUTHORITIES – Continued

Page

18 U.S.C. § 1017 5

18 U.S.C. § 2071 5

42 U.S.C. § 1983 8

Federal Rules of Civil Procedure 60(b)(3) 6

N.Y.S. Family Court Act (FCA) § 417 2

N.Y.S. Family Court Act § 439(e) 2

N.Y.S. Family Court Act § 516 6

N.Y.S. Family Court Act § 1113 ..... 3, 6

OTHERS:

Blacks Law Dictionary Fifth Edition (1979) 3

Universal Declaration of Human Rights, Resolution 217A(111) # 8, 9, 108 6

Geneva Convention, Article 3(d) 6

SUPPLEMENTAL BRIEF

PLEASE TAKE NOTICE, that the petitioner Edmund Orok Edem, pursuant to Rule 21 of the Rules of the Supreme Court, hereby moves this Honorable Court to set aside the judgment entered by all the courts of the State of New York, including the Court of Appeals of the State of New York, Mo. No. 02/1291; and to deal with a part of the judgment of the Eastern District of New York 03 CV 1220 (RJD) (LB) dismissing the complaint against the State of New York and Pamela Ise Smith on the basis of the Rooker-Feldman Doctrine.

OPINIONS BELOW

The opinion of the State of New York Court of Appeals was entered on October 15, 2002. A motion for rehearing was denied in February 25, 2003. The decision of the United States District Court, Eastern District of New York was entered on November 9, 2004. They appear in appendices 5 & 6, and are unpublished.

HISTORY OF THE CASE

(a) Petitioner was sued by Mrs. Pamela Ise Smith at the Kings County Family Court p/2539/00, alleging that plaintiff was the father of her child. In her Verified Petition, Mrs. Pamela Smith, swore that she was married at the time of conception of her child. [Appendix 1] She swore under oath that she had not seen her husband in the previous three years and provided an Affidavit of Non Access to support this fact. [Appendix 2] This document was procured for her by Mr.

Alexander Okon. These statements and documents have been found to be false as her tax returns and bank statements within this period proves otherwise. [Appendix 3]

(b) On the strength of the perjurious conduct of Smith and Okon, the State of New York through her judicial officers, Mr. Stewart Weinstein and Robert Ratanaski, then conspired to issue a falsified Order of Filiation [Appendix 4 b], from which an Order of Support was made on the same day, thereby depriving the petitioner of the mandatory 30-35 day window to file an appeal.

(c) The FCA is a *mandatory statute* which requires and not merely permits a course of action. FCA § 417 states: ***A child born of parents who at any time prior or subsequent to the birth of said child shall have entered into a ceremonial marriage shall be deemed the legitimate child of both parents for ALL purposes of this article regardless of the validity of the marriage.*** The State of New York has jettisoned this principle of their own law and held the plaintiff out as the father of the said child.

(d) It is trite that the FCA of the State of New York on which these orders were based provides for the right of appeal. FCA 439(e) states: ***The final order of a hearing examiner after objections and the rebuttal, if any, have been reviewed by a Judge, may be appealed pursuant to article eleven of this act.*** The court of the State of New York had permanently denied the plaintiff the right to appeal based on the same FCA 439(e).

(e) The State of New York conspired with her judicial officers to withhold the Order of Filiation from the plaintiff for fifteen months, contrary to what the FCA § 1113 states: ***An appeal under this article must be taken no later than thirty days after the service by a party or the law guardian upon the appellant of any order from which the appeal is taken, thirty days upon receipt of the order by the appellant in court or thirty days from the mailing of the order to the appellant by the clerk of court, whichever is earliest.***

(f) As if this was not enough, judicial officers Mr. Robert Weinstein and Mr. Robert Ratanaski conspired to remove the caption below, from the Order of Filiation sent to the petitioner. ***All such orders SHALL (emphasis mine) contain the following statement in conspicuous print: "Pursuant to section 1113 of the family court act, an appeal must be taken within thirty days of receipt of the order to the appellant by the clerk of the court, or thirty days after service by a party or law guardian upon the appellant, whichever is earliest."*** [Appendix 4a]

The petitioner has stated that the FCA is a mandatory statute which is characterized by such directions as 'SHALL' and not 'MAY'. The Blacks Law Dictionary Fifth Edition defines a 'mandatory' provision in a statute as one the omission to follow which renders the proceedings to which it relates VOID.

The petitioner therefore contends that the Orders on which he is made to pay money to the State of New York is illegal, ultra vires, null, and void. The petitioner then filed suit in the Eastern District of New York for declarative

and substantive relief. *Edem v. The State of New York et al.*, 03 CV 1220(RJD)(LB). The State of New York filed a motion for dismissal of the suit on the grounds that the Eleventh Amendment absolutely bars the State defendant from lawsuits by her citizens; and the Rooker-Feldman Doctrine. By filing such an action, the State of New York has confirmed in the words of the Honorable Judge Raymond Dearie, that "Plaintiff contends that these defendants conspired to falsify court documents and obstruct justice. He claims that they willfully withheld the Order of Filiation from plaintiff for sixteen months, thus preventing plaintiff from appealing. Plaintiff contends that they eventually issued a falsified version of the order." In considering a Motion to Dismiss such as the one filed by the *State of New York in Edem v. State of New York et al.*, 03 CV 1220(RJD)(LB) a court must assume as true factual allegations in the complaint. *Scheuer v. Rhodes*, 416 U.S. 232, 236 (1974).

In *Pierson v. Ray*, 386 U.S. 547 (1967), this Court had raised this import. "What about the judge who knowingly turns a trial into a 'Kangaroo' court? Or, one who intentionally flouts the Constitution in order to obtain a conviction? Congress, I think, concluded that the evils of allowing intentional deprivations of civil rights to go unredressed far outweighed the speculative inhibiting effects which might attend an inquiry into judicial deprivation of rights."

FEDERAL LAW CLAIMS

1. That Mr. Robert Ratanski and Mr. Stewart Weinstein, conspired during the course of a litigation to falsify

court documents contrary to 18 U.S.C. § 2071; 18 U.S.C. § 1001(a) 1, 2, 3.

2. That the said Mr. Robert Ratanski and Mr. Stewart Weinstein issued a certified and sealed falsified court order to the plaintiff and other courts contrary to 18 U.S.C. § 18.

3. That the said Mr. Robert Ratanski and Mr. Stewart Weinstein imprinted a seal of the Court on a document knowing fully well that the document and its contents contained falsified information contrary to 18 U.S.C. § 1017.

4. That the two judicial officers were in the employment of the State of New York which owes vicarious liability for their actions under the doctrine of *respondeat superior.*

5. That the petitioner brought this suit under a 1983 tort claim to recover damages from the State defendants.[1] That Smith and Okon, though private individuals, have deceptively deployed the coercive powers of the State through perjury to injure the petitioner's civil rights and should be tortiously liable to the petitioner. *Civil Rights Cases*, 109 U.S. 3 (1883).

6. That the plaintiff avers that the State of New York's highest court, refused to correct the criminal wrongdoing of their employees when it was pointed out to them.

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[1] *Carey v. Piphus*, 435 U.S. 247 (1978)

CONSTITUTIONAL LAW AND INTERNATIONAL TREATIES CLAIMS

1. That these actions of the State defendants have violated the petitioner's Sixth and Fourteenth Amendment due process right under the United States Constitution.

2. That actions of the State defendants is contrary to the Universal Declaration of Human Rights, Resolution 217A(111) # 8, 9, 10, of which the United States is a signatory. Geneva Convention, Article 3(d).

3. International law and western civilization has held that due notice and a reasonable opportunity to be heard to present one's claim or defense are the two fundamental conditions almost universally prescribed in all systems of law. This Court should uphold its own principle. *Twinning v. New Jersey*, 211 U.S. 78, 110 (1908).

4. The State of New York has made intent and has carried out that intention to deprive permanently the petitioner's fundamental and substantial rights, which has been made specific by the express terms of the Constitution or laws of the United States or by decisions interpreting them, by conspiring through her officers to hold back documents, falsify a court record and commit perjury. *Screws v. U.S.*, 325 U.S. 91, 104 (1945).

C. FRAUD UPON THE COURT

Pursuant to Federal Rules of Civil Procedure 60(b)(3) and FCA 516, there are clear and convincing evidence that Mr. Weinstein and Mr. Ratanaski, acting on behalf of the State of New York, withheld a court order from the plaintiff well past the mandatory time of appeal. They also falsified court records, claiming that the child under

dispute was born out of wedlock and removed an essential caption in the Order, which the FCA 1113 states must be CONSPICUOUSLY printed. [Appendix 4a & b]. They conspired to commit fraud. *Fleming v. New York University*, 865 F. 2d 478, 484 (2d Cir. 1989).

This fraud perpetrated by the two judicial officers has seriously affected the integrity of the normal or due process of adjudication. *Gleason v. Jandrucko*, 860 F. 2d 556, 559 (2d Cir. 1988). This fraud perpetrated by these judicial officers affected the machinery of the court and prevented it from acting in an impartial manner. *Kupferman v. Consolidated Research & Mfg. Corp.*, 459 F. 2d 1072, 1078 (2d Cir. 1972). It denied the petitioner a NOTICE to appeal, thereby depriving the petitioner the chance for a pre-deprivation HEARING.

The court has routinely held that only the most egregious misconduct such as bribery of a judge or members of a jury, or the fabrication of evidence by a party in which an attorney is implicated, will constitute a fraud upon the court. *United States v. Internat'l Tel. & Corp.*, 349 F. Supp. 22 (D. Conn. 1972). With utmost respect to this Court, the petitioner contends that what the judicial officers did was egregious conduct, when they conspired to withhold and falsify court documents.

From the forgoing, petitioner alleges that he has been deprived of his constitutional Sixth and Fourteenth Amendment right to property through the seizure of his money by the State, without due process of law. These rights were impugned by the State defendants' judicial officers acting on behalf of the State of New York, under color of state law. *Rodriguez v. Welprin*, 116 F. 3d 62, 65 (2d Cir. 1997)

There was an agreement between Mr. Stewart Weinstein and Mr. Robert Ratanaski to withhold and falsify court orders. They therefore acted in concert to inflict unconstitutional and criminal injuries upon the petitioner. *Pitchell v. Callan*, 13 F. 3d 545, 547 (2d Cir. 1994) It was this unconstitutional act that has now led to the injuries suffered by the petitioner. The State of New York's highest court refused to grant the petitioner his right of appeal and also violated the FCA laws of the States of New York, thereby "creating a policy or custom that sanctioned conduct amounting to a constitutional violation or allowing such a policy to continue and failed to act on information that unconstitutional acts were occurring." *Colon v. Coughlin*, 58 F. 3d 865, 873 (2d Cir. 1995)

The Supreme Court has held that "the right to due process of law is 'absolute' in the sense that it does not depend upon the merits of a claimant's substantive assertions . . . the denial of procedural due process should be actionable for nominal damages without proof of actual injury". *Carey v. Piphus*, 435 U.S. 247(e) (1978.) What happens when the two 'absolutes' that of procedural due process and immunity from suit meets? Where do the Courts stand? The legislative history of Section 1983, has shown that it was intended to 'create a species of tort liability' in favor of persons who are deprived of "rights, privileges, or immunities secured" to them by the Constitution.' *Imber v. Pachtman*, 424 U.S. 409, 417 (1976).

There was tacit agreement between Mr. Weinstein and Mr. Ratanaski to withhold a court order for fifteen months, and to issue a falsified one, hence their dual signature and a seal of the court stating that what was issued to the plaintiff was a true copy of what was in the file as of August 2000. There was therefore an agreement

between these two officers to inflict a constitutional injury on the plaintiff by an overt act of issuing a falsified document in furtherance of the goal of causing damage. *Pangburn v. Culbertson*, 200 F. 3d 65, 72 (2d Cir. 1999).

CONCLUSION

The decisions and actions of the State of New York has deprived the petitioner of his constitutionally guaranteed rights of fair hearing and equal protection under law. The petitioner calls this Court's attention that he is a foreigner and covered by international laws and treaties. The actions and judgments of the lower Courts has conflicted with the decisions of other state courts, federal laws, Constitution and treaties of the United States and has departed from the accepted and usual course of judicial proceedings, and sanctioned such a departure that this Court's supervisory power is hereby invoked.

WHEREFORE, petitioner urges this Court to set aside the judgments of the State Court as it was obtained through fraud, the breaking of federal laws, and the violation of petitioner's constitutional rights as guaranteed by the United States and International laws. This Court should act to save the United States from the opprobrium that would occur when the United States Attorney General tries to register this judgment in a foreign Court.

Respectfully submitted,

Edmund Orok Edem
97 Broad Street
Staten Island, NY 10304
(718) 727-3331

FAMILY COURT OF THE STATE OF NEW YORK
CITY OF NEW YORK
COUNTY OF KINGS

IN THE MATTER OF A PROCEEDING FOR PATERNITY UNDER ARTICLE 5 OF THE FAMILY COURT ACT PAMELA ISE SMITH PETITIONER, AGAINST EDMUND OROK EDEM RESPONDENT.	DOCKET NUMBER P-02539/00 PETITION FOR PATERNITY

TO THE FAMILY COURT:

THE UNDERSIGNED PETITIONER RESPECTFULLY SHOWS THAT:

1. THE PETITIONER RESIDES AT

   49 CROWN ST. APT. 6G
   BROOKLYN NY 11225

   PETITIONER'S SOCIAL SECURITY NUMBER IS 128-78-0323

2. PETITIONER HAD SEXUAL INTERCOURSE WITH THE ABOVE-NAMED RESPONDENT (ON SEVERAL OCCASIONS) COVERING A PERIOD OF TIME BEGINNING ON OR ABOUT FEBRUARY 1, 1997 AND ENDING ON OR ABOUT MAY 31, 1999 AND AS A RESULT THEREOF PETITIONER BECAME PREGNANT.

3. PETITIONER GAVE BIRTH TO ELIZABETH EFFIOM ISE A FEMALE OUT OF WEDLOCK ON FEBRUARY 2, 2000 AT BOLIN, NY AND SAID CHILD RESIDES WITH THE PETITIONER.

4. RESPONDENT IS THE FATHER OF THE CHILD.

5. UPON INFORMATION AND BELIEF RESPONDENT RESIDES AT:

   558 HOWARD AVE. APT. 1
   STATEN ISLAND NY 10301

6. AT THE TIME OF CONCEPTION OF THE CHILD, THE MOTHER WAS MARRIED TO TONY SMITH WHOSE LAST KNOWN ADDRESS IS

   UNK
   BRONX NY 00000

7. THE PETITIONER HAS MADE APPLICATION FOR CHILD SUPPORT ENFORCEMENT SERVICES WITH THE LOCAL ADMINISTRATION FOR CHILDREN'S SERVICES.

FAMILY COURT OF THE STATE OF NEW YORK
COUNTY OF KINGS
283 Adams St., Brooklyn, NY 11201

X

In The Matter Of

Pamela Ise-Smith, Petitioner

-against-

Edmund Orok Edem, Respondent

Tony F. Smith, Co-Respondent

Docket No.: P2539/CI

AFFIDAVIT OF NON-ACCESS

I, (Mr./~~Ms./Mrs.~~) Tony F. Smith ,
Being duly sworn, deposes and says:

I am making this Affidavit in the above-captioned paternity proceeding seeking to name someone else the father of child, Elizabeth Bassey Nyok Effroin-Ise, born on 2/2/2000. During the period of 8/8/94 to 5/4/00, I was the legal husband of Pamela Ise-Smith.

However, during the period of 12/31/98 to 5/4/00, and particularly during the nine months before the subject child, (child's name) Elizabeth Bassey Nyok Effroin-Ise, was born, I had no sexual contact or sexual access to the above-named respondent/petitioner ~~Mr./Mrs./~~Ms. Pamela Ise-Smith.

Further, I am not the father of: (child) Elizabeth Bassey Nyok Effroin-Ise, born on 2/2/2000

SWORN TO BEFORE ME ON THE

4th DAY OF MAY, ~~1999~~ 2000

/s/ Tony Smith
SIGNATURE OF DEPONENT/
CO-RESPONDENT

/s/ Iris Mercado
NOTARY PUBLIC

/s/ Tony Smith
PRINT NAME

IRIS MERADO
NOTARY PUBLIC,
State of New York
No. 01ME6006220
Initialized in
Bronx County /s/ IM

CITIBANK

PO BOX 5870 GRAND CENTRAL STATION
NEW YORK, NY 10163-5870

1999 IRS FORM 1099-INP
OMB 1543-0112

02/05/0495174/001/003

PAMELA ISE-SMITH
TONY F SMITH
49 CROWN STREET APT. 6G
BROOKLYN NY 11225-1822

PAYER'S NAME AND FED. ID NO
CITIBANK, N.A.
13-5266470

STATEMENT OF INTEREST INCOME

YOUR TAXPAYER IDENTIFICATION NUMBER: 128-78-0323

ACCOUNT TITLE	ACCOUNT NUMBER ACCOUNT TYPE ACCOUNT STATUS	1) INTEREST INCOME NOT INCLUDED IN LINE 3	2) EARLY WITHDRAWAL PENALTY	3) INTEREST ON U.S. SAVINGS BONDS AND TREAS. OBLIGATIONS	4) FEDERAL INCOME TAX WITHHELD
PAMELA ISE-SMITH TONY F SMITH	18668076 SAVINGS OPEN	1) 18.10			

* * *

Department of the Treasury – Internal Revenue Service	IRS use only – Do not write or staple in this space
Form 1040 U.S. Individual Income Tax Return 1999	

For the year Jan 1-Dec 31, 1999, or other tax year beginning , 1999, ending ,	OMB No. 1545-0074
Your First Name MI Last Name PAMELA ISE-SMITH	Your Social Security Number 128-78-0323
If a Joint Return, Spouse's First Name MI Last Name	Spouse's Social Security Number 237-33-4131
Home Address (number and street). If you Have a P.O. Box, See Instructions, 49 CROWN STREET Apartment No. 6G	▲ **Important** ▲ You must enter your social security number(s) above.
City, Town or Post Office, If You Have a Foreign Address, See Instructions BROOKLYN State NY Zip Code 11225	

	Yes	No	
▶ Do you want $3 to go to this fund?	X		Note: Checking 'Yes' will not change your tax or reduce your refund.
If a joint return, does your spouse want $3 to go to this fund?			

Filing Status

1 ☐ Single
2 ☐ Married filing joint return (even if only one had income)
3 ☒ Married filing separate return. Enter spouse's SSN above & full name here . . . ▶ TONY F SMITH

* * *

F.C.A. § 542; Art. 5-B

Form 5-7
(Paternity-Order of
Filiation)
12/97

At a term of the Family Court of the State of New York, held in and for the County of
at New York
on , 19

PRESENT:
Hon.
Judge/Hearing Examiner

.....

In the Matter of a Paternity Proceeding

(Commissioner of Social Services, Assignee, on behalf of , Assignor)

Petitioner,

S.S.# (Assignor)

-against-

Respondent.

S.S.#

.....

Docket No.

ORDER OF FILIATION

NOTICE: **IF THIS ORDER WAS ENTERED BY A JUDGE**, THE ORDER MAY BE APPEALED PURSUANT TO SECTION 1113 OF THE FAMILY COURT ACT. THAT SECTION PROVIDES THAT AN APPEAL FROM THAT ORDER MUST BE TAKEN WITHIN 30 DAYS AFTER RECEIPT OF THE ORDER BY APPELLANT IN COURT, 30 DAYS AFTER SERVICE BY A PARTY OR THE LAW

GUARDIAN UPON THE APPELLANT, OR 35 DAYS FROM THE DATE OF MAILING OF THE ORDER TO APPELLANT BY THE CLERK OF THE COURT, WHICHEVER IS EARLIEST.

IF THIS ORDER WAS ENTERED BY A HEARING EXAMINER, SPECIFIC WRITTEN OBJECTIONS TO THIS ORDER MAY BE FILED WITH THIS COURT WITHIN 30 DAYS OF THE DATE THE ORDER WAS RECEIVED IN COURT OR BY PERSONAL SERVICE, OR IF THE ORDER WAS RECEIVED BY MAIL, WITHIN 35 DAYS OF THE MAILING OF THE ORDER.

The above-named Petitioner having filed a petition sworn to , 19 , alleging that is the father of a (male) (female) child named [insert child's name and social security number] , born out of wedlock to on [insert child's date of birth] , 19 , (and that said (mother) (father) and/or child is or is likely to become a public charge); and

* * *

LE 5 FCA

AT A TERM OF THE FAMILY COURT OF THE STATE OF NEW YORK, HELD IN AND FOR THE COUNTY OF KINGS
AT 283 ADAMS STREET
BROOKLYN, NY 11201
ON AUGUST 15, 2000

PRESENT: HON. STEWART H. WEINSTEIN
JUDGE

IN THE MATTER OF A PROCEEDING FOR PATERNITY UNDER ARTICLE 5 OF THE FAMILY COURT ACT	DOCKET NUMBER
PAMELA ISE SMITH	P-02539/00
PETITIONER,	ORDER OF FILIATION
AGAINST	
EDMUND OROK EDEM	
RESPONDENT.	
SSN #	

A VERIFIED PETITION HAVING BEEN FILED IN THIS COURT ON APRIL 5, 2000 BY PAMELA ISE SMITH ALLEGING THAT EDMUND OROK EDEM IS THE FATHER OF A FEMALE CHILD NAMED ELIZABETH EFFIOM ISE BORN OUT OF WEDLOCK TO PAMELA ISE SMITH ON FEBRUARY 2, 2000; AND

EDMUND OROK EDEM HAVING APPEARED BEFORE THIS COURT TO ANSWER THE PETITION,

HAVING BEEN ADVISED BY THE COURT OF THE RIGHT TO COUNSEL, AND TO SHOW WHY A DECLARATION OF PATERNITY, ORDER OF SUPPORT AND OTHER RELIEF PRAYED FOR IN THE PETITION SHOULD NOT BE GRANTED; AND EDMUND OROK EDEM HAVING DENIED THE ALLEGATIONS OF THE PETITION; AND

THE ISSUES HAVING DULY COME ON TO BE HEARD BEFORE THIS COURT;

NOW, AFTER EXAMINATION AND INQUIRY INTO THE FACTS AND CIRCUMSTANCES OF THE CASE AND AFTER HEARING THE PROOFS AND TESTIMONY OFFERED IN RELATION THERETO; IT IS

ADJUDGED AND DECLARED THAT EDMUND OROK EDEM IS THE FATHER OF ELIZABETH EFFIOM ISE.

DATED: NOV 08 2000

ENTER:

/s/ Stewart H. Weinstein
STEWART H. WEINSTEIN
JUDGE

State of New York,
Court of Appeals

At a session of the Court, held at Court of Appeals Hall in the City of Albany on the fifteenth ***day of*** October 2002

Present, HON. JUDITH S. KAYE,
Chief Judge, presiding.

2-13 Mo. No. 949
In the Matter of Pamela Ise-Smith,

Respondent,

v

Edmund Orok Edem,

Appellant.

A motion for leave to appeal to the Court of Appeals in the above cause having heretofore been made upon the part of the appellant herein and papers having been submitted thereon and due deliberation having been thereupon had, it is

ORDERED, that the said motion be and the same hereby is dismissed upon the ground that the order sought to be appealed from does not finally determine the proceeding within the meaning of the constitution.

/s/ Stuart M. Cohen
Stuart M. Cohen
Clerk of the Court

State of New York,
Court of Appeals

At a session of the Court, held at Court of Appeals Hall in the City of Albany on the twenty-fifth ***day of*** February 2003

Present, HON. JUDITH S. KAYE,
Chief Judge, presiding.

Mo. No. 1291
In the Matter of Pamela Ise-Smith,

Respondent,

v

Edmund Orok-Edem,

Appellant.

A motion for reargument and/or clarification to the Court of Appeals in the above cause having been heretofore made upon the part of appellant herein and papers having been submitted thereon and due deliberation having been thereupon had, it is

ORDERED, that the said motion be and the same hereby is denied.

/s/ Stuart M. Cohen
Stuart M. Cohen
Clerk of the Court

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

---------- X

EDMUND OROK EDEM,

Plaintiff,

-against-

THE STATE OF NEW YORK and PAMELA ISE SMITH,

Defendants.

---------- X

JUDGMENT
03-CV-1220 (RJD)

(Filed Nov. 9, 2004)

A Memorandum and Order of Honorable Raymond J. Dearie, United States District Judge, having been filed on November 3, 2004, adopting the Report and Recommendation of Magistrate Judge Lois Bloom, dated September 15, 2004, granting the State's motion to dismiss; denying plaintiff's motion for default judgment against defendant Smith; dismissing the claims against her; denying plaintiff's request to add the individual defendants; denying plaintiff's motion asking that the Second Circuit reconsider the case; and denying plaintiff's motion for sanctions; it is

ORDERED and ADJUDGED that plaintiff take nothing of the defendants; that the Report and Recommendation of Magistrate Judge Lois Bloom is adopted; that the State's motion to dismiss is granted; that plaintiff's motion for default judgment against defendant Smith is denied; that the claims against her are dismissed; that plaintiff's request to add the individual defendants is denied; that plaintiff's motion asking that the Second

Circuit reconsider the case is denied; and that plaintiff's motion for sanctions is denied.

Dated: Brooklyn, New York
November 04, 2004

/s/ Robert C. Heinemann
ROBERT C. HEINEMANN
Clerk of Court